

NORFOLK DISTRICT ATTORNEY'S OFFICES

(Monday- Friday 8:30 AM-4:30 PM)

Brookline Office

Brookline
360 Washington Street
Brookline, MA 02146
(617) 738-5072
FAX (617) 738-5013

Canton Office

*Dedham, Dover,
Medfield, Needham,
Norwood, Westwood,
Wellesley*
45 Shawmut Road
Canton, MA 02021
(781) 830-4800
FAX (781) 830-4801

Quincy Office

*Braintree, Cohasset,
Holbrook, Milton,
Quincy, Randolph,
Weymouth*
1515 Hancock Street
Quincy, MA 02169
(617) 769-6100
FAX (617) 769-6101

Stoughton Office

*Avon, Canton, Sharon,
Stoughton*
1288 Central Street
Stoughton, MA 02072
(781) 344-9227
FAX (781) 341-8492

Wrentham Office

*Foxborough, Franklin,
Medway, Millis, Norfolk,
Plainville, Walpole,
Wrentham*
Route 140
Wrentham, MA 02093
(508) 384-3788
FAX (508) 384-1702

Sexual Assault Unit

45 Shawmut Road
Canton, MA 02021
(781) 326-1111
(24-hour HOTLINE)



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Commonwealth of Massachusetts

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(781) 830-4800

www.norfolkda.com

Norfolk District Attorney's Office

Guide for Victims and Witnesses



OTHER HELPFUL RESOURCES

Criminal History Systems Board, Victim Service Unit

200 Arlington Street, Suite 2200, Room 2112 • Chelsea, MA 02150

Phone: (617) 660-4600 • www.state.ma.us/chsb/

Provides notification to victims, family members, and parents or guardians of minors, of when a prisoner is to be released. You must be certified by the Criminal History Systems Board before receiving this information.

Department of Correction, Victim Service Unit

999 Barretts Mill Road • West Concord, MA 01742

Phone: (978) 369-3618 • www.magnet.state.ma.us/doc/

Provides information, assistance, and support to victims of crime and other concerned parties whose offenders are in the custody of the Massachusetts Department of Correction.

Massachusetts Office for Victim Assistance

One Ashburton Place, Suite 1101 • Boston, MA 02108

Phone: (617) 727-5200

The Massachusetts Office for Victim Assistance is an administrative office that applies for V.O.C.A. Grants and distributes them to various centers throughout Massachusetts. Also puts on conferences and trainings for professionals within the victim assistance field. If needed, a victim advocate is always on staff.

Parole Board, Victim Service Unit

27 Wormwood Road, Suite 300 • Boston, MA 02210

Phone: (617) 727-3271

Provides information to victims about parole eligibility dates and upcoming hearings.

Victim Compensation Division, Attorney General's Office

One Ashburton Place, 19th Floor • Boston, MA 02108-1698

Phone: (617) 727-2200 • www.ago.state.ma.us/oag/default.asp

Provides compensation to victims of violent crime occurring in Massachusetts, to dependents and family members of homicide victims, and any person responsible for the funeral expenses of a homicide victim; must meet specific requirements.

A Message from District Attorney Bill Keating



Each year thousands of people in Massachusetts become victims of or witnesses to a crime. The vast majority of these people have no prior experience dealing with our criminal justice system. My staff includes a group of trained professional advocates who support victims and witnesses in the immediate aftermath of crime and provide assistance through the court process.

The Victim Witness Services Unit is here to ensure that services are made available to the victims and witnesses of crimes in Norfolk County. Victim Witness Advocates are assigned to each of the District Courts as well as the Superior Court and the Probate and Family Court.

This brochure contains a summary of important aspects of the criminal justice system that may be helpful to victims of crime and their families. Please do not hesitate to contact my office if you have any questions about our services.

William R. Keating

THE ROLE OF THE NORFOLK DISTRICT ATTORNEY

The Norfolk District Attorney's Office represents the citizens of the Commonwealth of Massachusetts when prosecuting defendants accused of committing a criminal offense in Norfolk County. If a crime is committed against your person or property, you do not have to hire a private attorney. The District Attorney's Office prosecutes your case in the name of the Commonwealth, that is, Commonwealth vs. John Doe.

An Assistant District Attorney (ADA) and Victim Witness Advocate are assigned to each case once it enters the court system. The ADA and Advocate will keep you informed of the progress of the case and will answer any questions that you may have.

Your input and involvement are important. It is the policy of District Attorney Bill Keating that your interests and concerns are presented to the court and that the views of crime victims are considered in determining appropriate recommendations concerning the disposition of a case.

Victim Witness services available to you include:

- crisis intervention and emotional support
- referrals for financial, medical, counseling, legal and other services
- court accompaniment and in-court support

Information and assistance are also available regarding:

- safety planning and protection
- Victim Impact Statements
- property return and intervention with employers or creditors
- claims for Victim Compensation
- applications for Inmate Status Notification (C.O.R.I. application)
- post-disposition referral services at state and/or county correctional facilities

If you have any questions or concerns, please contact the Victim Witness Advocate assigned to your case or call the Victim Witness Services Unit at (781) 830-4800.

Superior Court

The Superior Court has jurisdiction over all crimes, but most often handles felony cases. Judges in the Superior Court have the power to impose sentences to State Prison or a County House of Correction, depending on the seriousness of the crime. Cases proceed to the Superior Court in one of two ways: following a Probable Cause hearing or as a result of a Direct Indictment.

A Probable Cause hearing is held in the District Court. This hearing occurs before a judge and in the presence of the defendant. Witnesses testify and the judge then decides whether there is probable cause to believe a crime has been committed and that the defendant committed the crime. If the District Court judge finds probable cause, the case is then presented to the Grand Jury and proceeds to the Superior Court.

A Direct Indictment is the result of a felony case proceeding directly to the Superior Court by way of the Grand Jury. This is known as the "direct indictment" process.

Grand Jury

The Grand Jury is comprised of twenty-three citizens from Norfolk County who are selected to serve for three months. In order for a case to proceed to Superior Court, the ADA presents evidence of the crime to the Grand Jury. The Grand Jury decides whether that evidence is sufficient to issue an indictment. This is a secret proceeding. One witness testifies at a time, there is no judge or defendant present, and there is no cross-examination of witnesses by a Defense Attorney. The ADA and Advocate can explain the Grand Jury process to you in more detail.

Appellate Courts

After being convicted and sentenced, a defendant may appeal the conviction and/or sentence. Sentences are appealed to the Appellate Division of the Superior Court. Convictions are appealed to the Massachusetts Appeals Court, or, in certain circumstances, to the Massachusetts Supreme Judicial Court for review of the trial procedures.

An appeal is not a new trial. No witnesses testify. For more information about the appeals process, ask an Advocate or ADA.

THE COURT SYSTEM

Criminal cases are handled in one of three divisions of the court system. These three divisions are the District, Juvenile and Superior Courts.

The District Court

There are five District Courts in Norfolk County. They are located in Brookline, Dedham, Quincy, Stoughton and Wrentham. Generally, misdemeanors and some felonies are handled in the District Court. A judge in the District Court can impose sentences to the county House of Correction (not State Prison) for up to a maximum of two and one half years on any single offense. A case begins in the District Court when the police make an arrest or the Clerk Magistrate issues a criminal complaint in response to an application filed by a police officer or following a hearing. Private citizens may also file an application for a criminal complaint.

Bench and Jury Sessions in District Court

Every defendant charged with a crime has the right to choose a trial by jury or by a judge. If the defendant chooses a jury trial, the case will be tried before a jury of six citizens of Norfolk County, in a District Court "jury session". Jury sessions are located in the Dedham, Quincy and Wrentham Courts. If the defendant chooses to have a judge determine the facts, the trial is called a "bench" trial and is held in the District Court in a "bench session". At a jury trial, the jury decides whether the defendant is guilty or not guilty; in a bench trial, the judge makes this decision. In both cases, it is the judge's role to preside over the trial, make rulings about the law and impose the sentence if the defendant is found guilty. Sentences are never imposed by the jury.

Juvenile Court

If the person charged is under the age of 17 (at the time of the commission of the crime), he or she is a juvenile and is prosecuted in the juvenile session in the District Court in Dedham. In some instances, a juvenile may be tried as a Youthful Offender and be subject to an adult sentence. Specialized ADA's and Advocates are assigned to handle juvenile cases in Norfolk County.

THE COURT PROCESS

Arraignment and Bail

The defendant's first appearance in court before a judge is at the arraignment. Unless requested, it is not necessary for victims and witnesses to come to court for the arraignment. However, you have the right to be at the arraignment. During an arraignment:

- The defendant is present. The defendant is entitled to be represented by an attorney. The court may appoint an attorney if the defendant is found to be indigent.
- The judge formally notifies the defendant of the charges. The defendant enters a plea of "guilty" or "not guilty." It is common for a defendant to plead "not guilty" at the arraignment.
- The judge schedules a date for the defendant to return to court for a pre-trial conference and will either release the defendant on "personal recognizance," impose bail, detain the defendant for ninety days in jail, or hold the defendant without bail. The defense attorney may request a review of the bail amount at a future hearing.
- If the defendant is released on bail, the judge may impose additional conditions. For example, there is to be no contact with the victim or witnesses.

Pre-Trial Conference

A pre-trial conference is scheduled after the arraignment. The purpose of the pre-trial conference is to allow the ADA and the Defense Attorney to discuss the case. Victims and witnesses will be notified if their presence is required. If the opportunity to resolve the case before a trial arises, the victim will be consulted.

At the pre-trial conference:

- The defendant is present.
- The ADA and Defense Attorney discuss the case in order to decide how the case will proceed -- including the possibility that the case may be resolved without a trial.
- The defendant may plead guilty and be sentenced by the judge. The victim's input about the sentence is important and will be solicited by the ADA or Advocate.

- If the case is not resolved, the judge sets a date for trial.
- In some cases, additional hearings, conferences or case status reviews will be scheduled before the trial date. You have a right to be present at any of these court dates. However, unless requested by the ADA or Advocate, your presence is not required.

Trial

Most cases are resolved without a trial. If a case does go to trial, victims and witnesses will be notified of the trial date and may receive a subpoena from the court. At a trial, you can expect the following:

- The Commonwealth, represented by the ADA, presents the evidence first. Commonwealth witnesses are questioned by the ADA and then cross-examined by the Defense Attorney.
- The defendant is not required to present any witnesses. The defendant does not have to testify. However, defendants and defense witnesses who do testify may be cross-examined by the ADA.
- In a jury trial, the ADA may begin the trial with an opening statement. This is a summary of the case. The Defense Attorney may also give an opening statement, but is not required to do so. At the conclusion of the evidence, the ADA and Defense Attorney each may give a closing argument, summarizing the evidence presented at trial.
- The judge or jury decides whether the Commonwealth has proven its case beyond a reasonable doubt, and returns a verdict of guilty or not guilty. In jury trials, after closing arguments and before a jury is sent to deliberate, the judge instructs the jury on laws that the jury must consider in deciding the case. A jury's verdict must be unanimous.
- If the defendant is found guilty, the judge will impose a sentence either at that time or at a later date (sentencing hearing).

Testifying

Keep these points in mind while you are testifying:

- Always tell the truth.
- If you do not understand a question, say so.
- If a question can be answered by a simple yes or no, do so.
- Do not volunteer information.
- If you do not know the answer to a question, say so.
- Do not guess.
- Remain calm and courteous. Testifying can be frustrating, but it is important not to lose your temper or become argumentative.
- It is perfectly proper for you to have discussed the case and your testimony with the ADA or Advocate beforehand. Do not deny having done so.
- Speak loudly and clearly. Some courts have amplifying microphones, but most microphones only record your testimony.
- When you are cross-examined by the Defense Attorney, do not try and give explanations for your actions and answers. If explanations are needed, the ADA will ask you additional questions after the defense attorney has finished cross-examination.
- Do not discuss your testimony with other witnesses during the trial.
- Avoid jurors.
- You may be entitled to a witness fee. Please see your ADA or Advocate to apply for it.

GUIDE FOR WITNESSES

Few people have had experience with the courts before becoming a victim or witness to a crime. Most people who have to testify will understandably be nervous. The best advice is to listen carefully to the questions, make sure you understand each question, take your time and tell the truth. The following information will help you prepare for testifying.

Preparing for Trial

You will meet with the ADA and Advocate to discuss what happened and review the testimony you will offer in court. You are encouraged to provide all information even if you think it is unimportant, harmful or embarrassing.

Appearing in Court

You will be notified when to appear in court. Some victims and witnesses will receive a subpoena, which is a court order to appear in court. Please arrive on time. If you require documentation of your court appearance, contact the Advocate.

Please speak with the ADA or Advocate the day before you are scheduled to appear to make sure that the case is still expected to be heard.

It is not unusual for delays to occur so it is wise to bring a book or magazine to help pass the time.

Court proceedings are formal. Please dress neatly and appropriately.

VICTIM IMPACT STATEMENT

In all cases, the ADA will consider the victim's views and the impact of the crime when determining the appropriate sentencing recommendation. The court will hear about the impact of the crime and the victim's feelings regarding sentencing.

Victims (or, in homicide cases, family members of the victim) are entitled to provide a Victim Impact Statement, verbally or in writing, to the judge prior to sentencing. This statement describes the physical, emotional and financial impact of the crime on the victim, as well as the victim's input regarding the sentence. The Victim Impact Statement may then be forwarded to the Probation Department, Department of Corrections or the Parole Board.

SENTENCING

A judge may impose any of the following sentences:

Incarceration

A sentence to the house of correction or the state prison, depending upon the crime..

Suspended Sentence

This is a sentence of imprisonment which is suspended for a period of time. The defendant is not incarcerated but is supervised by probation. The defendant may be incarcerated if he/she violates the conditions of probation.

Probation

The defendant is placed under the supervision of a probation officer and is required to fulfill certain conditions for a specified period of time.

Continued Without a Finding

The case is continued for a period of time with certain conditions. At the end of the time period, the case is dismissed if the defendant has fulfilled the conditions and has not committed another crime.

Before deciding the sentence, the judge considers the recommendations of both the ADA and Defense Attorney. The judge will also consider the information contained in the Victim Impact Statement if the victim chooses to provide one. The ADA and the Advocate will discuss the Victim Impact Statement with you and will assist you in preparing one.

COMMON CONCERNS

Financial Assistance

Victims of crime may be entitled to seek reimbursement in two ways:

- **Restitution**

If the defendant pleads or is found guilty, the judge may order him or her to pay for out-of-pocket expenses incurred as a direct result of the crime. Crime victims have the right to request restitution. If you have incurred medical bills, property damage or other expenses, speak to an ADA or an Advocate.

- **Victim Compensation**

The state provides compensation to victims of violent crimes or their dependents for certain out-of-pocket expenses. For eligibility information, ask the Advocate about the Victim Compensation Program. If you are eligible, an Advocate can help you file a claim with the Attorney General's Office.

Fears or Threats

Although retaliation is unlikely, you may be fearful after being a victim or witness to a crime. If you are worried or fearful about your involvement in the case, please contact the ADA or Advocate. If you are threatened in any way, please call the police immediately and notify the ADA or Advocate.

Contact by Defense Attorney

In the coming weeks, you may receive a telephone call and visit from investigators or a Defense Attorney representing the defendant. It is well within your rights to consent to or refuse such an interview. In fact, no one can tell you that you must talk to or not talk to anyone. You should know that any statement you have made to law enforcement officials will be turned over to the Defense Attorney.

Post-Conviction Services

The District Attorney's Victim Witness Services Unit is available to provide information and assist with concerns relating to the case even after the case is over. If the defendant has been incarcerated, an Advocate may assist you in filing a Criminal Offender Records Information (C.O.R.I.) application. This is a request to be notified of changes in an inmate's status and of an inmate's release from jail or prison, including parole eligibility.

The Victim Services Unit at the Norfolk House of Correction (781-329-3705 x 265) is available to provide information on a house of correction inmate's status.

The Victims Services Unit at the Dept. of Correction (978) 369-3618 is available to provide information on offenders in the custody of D.O.C. If the case is appealed, a D.A.'s Advocate can provide information and notification regarding the progress of the case in the Appeals or Supreme Judicial Court. Feel free to contact an Advocate for assistance even after the case is over.

GLOSSARY

ACQUITTAL - The decision of a judge or jury that the defendant was not proven guilty beyond a reasonable doubt.

ADMISSION TO SUFFICIENT FACTS - An admission by the defendant that there is sufficient evidence to support a finding of guilty.

ARRAIGNMENT - The court hearing in which the defendant is charged with a crime and enters a plea of guilty or not guilty.

BAIL - An amount of money or property sometimes required by a judge to be paid to the court by the defendant to insure future attendance in court.

C.O.R.I. - Criminal Offender Record Information.

CHANGE OF PLEA - A change in defendant's plea from not guilty to guilty.

COMPLAINT - A written accusation of a crime made in the District Court by a police officer or a private citizen.

CONTINUANCES - Postponements or scheduling of future dates.

DEFENSE COUNSEL - The attorney representing the defendant.

FELONY - A crime punishable by incarceration in the state prison for a period of years.

INDICTMENT - A written statement of a crime by the Grand Jury charging the defendant and issued in the Superior Court.

INDIGENT - Having insufficient income or assets to pay for a Defense Attorney.

JURISDICTION - The extent of authority of a particular court.

MISDEMEANOR - A crime punishable by incarceration in the County House of Correction for a maximum of 2 ½ years.